

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH LOCHUCH EWALAN,

Plaintiff,

v.

T. ST. GERMAIN, *et al.*,

Defendants.

Case No. C21-5519-BJR-MLP

ORDER TO SHOW CAUSE

This is a civil rights action proceeding under 42 U.S.C. § 1983. On January 13, 2022, this Court issued an Order directing service of Plaintiff's second amended complaint on T. St. Germain, Erin Lystad, and Dennis Dahane, the three individuals identified as Defendants in Plaintiff's pleading. (Dkt. # 14.) Included with the service materials were requests that each Defendant waive service of summons in this action. (*See id.*) On January 25, 2022, counsel entered an appearance on behalf of all three named Defendants, and Defendants Lystad and Dahane thereafter returned the waivers of service of summons included in their service packets. (Dkt. ## 15-17.) To date, Defendant St. Germain has not returned the service waiver directed to him.

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1 On February 14, 2022, an answer to Plaintiff's second amended complaint was filed on
2 behalf of all three named Defendants, though Defendants asserted therein an affirmative defense
3 that Defendant St. Germain had not been properly served in this action. (Dkt. # 18 at 3.) On
4 February 16, 2022, Plaintiff filed a motion asking the Court to issue summons to Defendants St.
5 Germain and Lystad, asserting that neither Defendant had timely returned a waiver of service.
6 (Dkt. # 19.) As noted above, Defendant Lystad has, in fact, returned her service waiver though
7 Defendant St. Germain has not, and Defendants offer no explanation for Defendant St.
8 Germain's failure to do so aside from the bare assertion in their answer that he has not been
9 properly served.

10 Given the absence of any explanation for Defendant St. Germain's failure to return his
11 waiver of service, the Court hereby ORDERS as follows:

12 (1) Defendant St. Germain shall SHOW CAUSE within *twenty-one (21) days* why
13 the Court should not direct that he be personally served and why the cost of such personal
14 service should not be assessed pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure.

15 (2) Plaintiff's motion for issuance of summons (dkt. # 19) is STRICKEN. The Court
16 will await a response to this Order before deciding whether issuance of a summons to Defendant
17 St. Germain is appropriate.

18 (3) The Clerk is directed to send copies of this Order to Plaintiff, to Defendant St.
19 Germain at the Stafford Creek Corrections Center, to Defendants' counsel, and to the Honorable
20 Barbara J. Rothstein.

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1 Dated this 23rd day of February, 2022.

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4 MICHELLE L. PETERSON
5 United States Magistrate Judge
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